



General Assembly

Substitute Bill No. 1154

January Session, 2007

* SB01154PS 040907 *

**AN ACT CONCERNING THE CONTROL AND SECURITY OF
RADIOACTIVE MATERIAL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-151 of the general statutes is amended by
2 adding subdivisions (9) and (10) as follows (*Effective October 1, 2007*):

3 (NEW) (9) "Radioactive materials" means any solid, liquid or gas
4 that emits ionizing radiation spontaneously.

5 (NEW) (10) "Commissioner" means the Commissioner of
6 Environmental Protection or a designee or agent of the Commissioner
7 of Environmental Protection.

8 Sec. 2. Section 22a-152 of the general statutes is repealed and the
9 following is substituted in lieu thereof (*Effective October 1, 2007*):

10 The Governor, or the commissioner, on behalf of this state, is
11 authorized to enter into agreements with the government of the United
12 States providing for discontinuance of certain of the programs of the
13 government of the United States with respect to sources of ionizing
14 radiation and the assumption thereof by this state, as provided for in
15 the Atomic Energy Act of 1954, as amended.

16 Sec. 3. Section 22a-153 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2007*):

18 (a) The [Commissioner of Environmental Protection] commissioner
19 shall supervise and regulate in the interest of the public health and
20 safety the use of ionizing radiation within the state.

21 (b) [Said] The commissioner may employ, subject to the provisions
22 of chapter 67, and prescribe the powers and duties of such persons as
23 may be necessary to carry out the provisions of sections 22a-151 to 22a-
24 158, inclusive, as amended by this act.

25 (c) [Said] The commissioner shall [make such regulations as may be
26 necessary to carry out the provisions of said sections] adopt
27 regulations, in accordance with the provisions of chapter 54, regarding
28 sources of ionizing radiation and radioactive materials, including, but
29 not limited to:

30 (1) Regulations necessary to secure agreement state status from the
31 Nuclear Regulatory Commission pursuant to Section 274 of the Atomic
32 Energy Act of 1954, 42 USC 2021, as amended;

33 (2) Regulations relating to the construction, operation, control,
34 tracking, security or decommissioning of sources of ionizing radiation,
35 including, but not limited to, any modification or alteration of such
36 sources;

37 (3) Regulations relating to the production, transportation, use,
38 storage, possession, management, treatment, disposal or remediation
39 of radioactive materials;

40 (4) Regulations relating to planning for and responding to terrorist
41 or other emergency events, or the potential for such events, that
42 involve or may include radioactive materials;

43 (5) Regulations as may be necessary to carry out the provisions of
44 sections 22a-151 to 22a-158, inclusive, as amended by this act; and

45 (6) Regulations establishing fees for the licensure of sources of
46 ionizing radiation, which fees, in conjunction with the fees collected
47 pursuant to section 22a-148 shall be sufficient for the administration,

48 implementation and enforcement of an ionizing radiation program.

49 (d) The Governor or the commissioner is authorized to employ such
50 consultants, experts and technicians as [he shall deem] necessary for
51 the purpose of conducting investigations and reporting [to him] on
52 matters connected with the implementation of the provisions of [said
53 sections] sections 22a-148 to 22a-158, inclusive, as amended by this act.

54 (e) There is established within the Environmental Quality Fund
55 established under section 22a-27g an account to be known as the
56 "ionizing radiation management account". Notwithstanding the
57 provisions of section 22a-27g, any moneys collected in accordance with
58 section 22a-148, or 22a-150, or any regulations adopted in accordance
59 with subsection (c) of this section, shall be deposited in the
60 Environmental Quality Fund and credited to the ionizing radiation
61 management account. Any balance remaining in the account at the end
62 of any fiscal year shall be carried forward in the account for the fiscal
63 year next succeeding. Said account may also receive moneys from
64 other sources. The account shall be available to the commissioner to
65 implement, administer and enforce (1) the ionizing radiation program,
66 or (2) the provisions of sections 22a-148 to 22a-158, inclusive, as
67 amended by this act, and section 9 of this act, or any regulations or
68 guidelines adopted pursuant to said sections. Nothing in this
69 subsection shall prevent the commissioner from obtaining or using
70 funds from sources other than the ionizing radiation management
71 account for the purposes of implementing, administering, and
72 enforcing an ionization radiation program.

73 (f) The commissioner may establish radiation exposure guidelines
74 for the public for the management of terrorist events or other
75 emergencies involving radioactive materials. Any such guidelines may
76 be based upon the recommendations of the federal government and
77 the National Council on Radiation Protection and Measurements.

78 Sec. 4. Subsection (a) of section 22a-154 of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective*

80 October 1, 2007):

81 (a) The [Commissioner of Environmental Protection may provide by
82 regulation for] commissioner may adopt regulations, in accordance
83 with the provisions of chapter 54, for the general or specific licensing
84 of [by-product, source, special nuclear materials and other] sources of
85 ionizing radiation. [, or devices or equipment utilizing such materials,
86 and for amendment, suspension, or revocation of licenses issued
87 pursuant thereto.] The commissioner may issue, deny, renew, modify,
88 suspend or revoke such licenses and may include such terms and
89 conditions in such licenses that the commissioner deems necessary.

90 Sec. 5. Section 22a-155 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2007*):

92 [(a) In any proceeding under sections 22a-151 to 22a-158, inclusive,
93 or any other applicable statute (1) for the issuance or modification of
94 rules and regulations relating to control of sources of ionizing
95 radiation; or (2) for granting, suspending, revoking or amending any
96 license; or (3) for determining compliance with or granting exceptions
97 from rules and regulations of the Commissioner of Environmental
98 Protection, the commissioner or his representative designated in
99 writing shall hold a hearing upon the request of any person whose
100 interest may be affected by the proceeding, and shall admit any such
101 person as a party to such proceeding. Thirty days published notice
102 shall be given of any such hearing.

103 (b) Any final order entered in any proceeding under subsection (a)
104 above shall be subject to judicial review by the Superior Court in the
105 manner prescribed in section 25-36.]

106 (a) The commissioner may issue, modify or revoke orders to (1)
107 abate pollution or a potential source of pollution from ionizing
108 radiation or radioactive materials, or (2) correct violations of sections
109 22a-148 to 22a-150, inclusive, section 22a-153, as amended by this act,
110 22a-154, as amended by this act, 22a-157, as amended by this act, or
111 22a-158, or any regulation adopted or registration or license issued

112 pursuant to said sections. Such orders may include steps necessary to
113 abate pollution or a potential source of pollution, or correct any
114 violation or any other measures the commissioner deems necessary.
115 Such orders may be issued to any person who violates any provision of
116 said sections, or any regulation adopted or registration or license
117 issued pursuant to said sections or to the owner of any land on which
118 the violation occurs, regardless of whether the owner of the land
119 participated in the violation. If two or more persons are issued an
120 order pursuant to this section for the same violation, such persons
121 shall be jointly and severally liable for complying with such order.

122 (b) Each order issued under this section shall be served by certified
123 mail, return receipt requested, or by a state marshal or indifferent
124 person. If a state marshal or indifferent person serves the order, a true
125 copy of the order shall be served, and the original, with a return of
126 such service endorsed thereon, shall be filed with the commissioner.
127 The order shall be deemed to be issued upon service or upon deposit
128 in the mail. Any order issued pursuant to this section shall state the
129 basis on which it is issued and shall specify a reasonable time for
130 compliance.

131 (c) Unless a person aggrieved by an order files a written request for
132 a hearing before the commissioner not later than thirty days after the
133 date of issuance, such order shall become final. If so requested, the
134 commissioner shall hold a hearing as soon thereafter as practicable. A
135 request for a hearing shall be a condition precedent to any appeal. The
136 commissioner may, after the hearing or at any time after the issuance
137 of the order, modify such order by agreement or extend the time
138 periods given for compliance contained in the order if the
139 commissioner deems such modification or extension advisable or
140 necessary and any such modification or extension shall be deemed to
141 be a revision of an existing order and shall not constitute a new order.
142 There shall be no hearing subsequent to, or any appeal from, any such
143 modification or extension.

144 (d) After the hearing, the commissioner shall consider all

145 supporting and rebutting evidence and may affirm, modify or revoke
146 such order and shall notify the recipient of the order of such action by
147 certified mail, return receipt requested.

148 (e) When the commissioner issues a final order pursuant to this
149 section, the commissioner shall cause a certified copy or notice thereof
150 to be recorded on the land records in the municipality in which the
151 land is located, and such certified copy or notice shall constitute a
152 notice to the owner's heirs, successors and assigns. When the order has
153 been fully complied with or revoked, the commissioner shall issue a
154 certificate acknowledging such compliance or revocation, which
155 certificate the commissioner shall cause to be recorded on the land
156 records in the municipality in which the order was previously
157 recorded.

158 (f) A final order of the commissioner shall be subject to appeal as set
159 forth in sections 4-183 and 4-184, except that any such appeal shall be
160 taken to the superior court for the judicial district of New Britain.

161 Sec. 6. Section 22a-156 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective October 1, 2007*):

163 Whenever, in the judgment of the [Commissioner of Environmental
164 Protection] commissioner, any person has engaged in or is about to
165 engage in (1) any acts or practices which constitute, or will constitute, a
166 violation of any provision of sections [22a-151 to 22a-158, inclusive, or
167 any other applicable statute] 22a-148 to 22a-150, inclusive, sections 22a-
168 153 to 22a-155, inclusive, as amended by this act, section 22a-157, as
169 amended by this act, or 22a-158, or any [rule,] regulation adopted or
170 registration or license or order issued [thereunder, at the request of the
171 Commissioner of Environmental Protection] pursuant to said sections,
172 or (2) any act or omission in which a person has established, created or
173 maintained or will establish, create or maintain an exposure hazard or
174 source of pollution from ionizing radiation or radioactive material,
175 upon the request of the commissioner, the Attorney General [may
176 make application to the appropriate court] shall bring an action in the

177 superior court for the judicial district of Hartford for an order
178 enjoining such acts, [or] practices or omissions, or for an order to
179 control or abate a hazard or source of pollution, or for an order
180 directing compliance and, upon a showing by the commissioner that
181 such person has engaged or is about to engage in any such acts or
182 practices or omissions, a permanent or temporary injunction,
183 restraining order or other order may be granted. Any such action
184 brought by the Attorney General pursuant to this section shall have
185 precedence in the order of trial as provided for in section 52-191.

186 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) Any person who violates
187 any provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153
188 to 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes,
189 as amended by this act, or any regulation adopted or registration,
190 license or order issued pursuant to said sections, or any owner of land
191 who permits such violations to occur on such owner's land, shall be
192 assessed a civil penalty of not more than ten thousand dollars per day
193 for each offense. Each violation shall be a separate and distinct offense
194 and, in the case of a continuing violation, each day a violation
195 continues shall be deemed a separate and distinct offense. If two or
196 more persons are responsible for such violation, such persons shall be
197 jointly and severally liable under this section. The Attorney General,
198 upon request of the Commissioner of Environmental Protection, shall
199 institute a civil action in the superior court for the judicial district of
200 Hartford to recover such penalty. Any such action brought by the
201 Attorney General pursuant to this section shall have precedence in the
202 order of trial as provided for in section 52-191 of the general statutes.

203 (b) Any person who, with criminal negligence, violates any
204 provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153 to
205 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes, as
206 amended by this act, or any regulation adopted or registration, license
207 or order issued pursuant to said sections shall be fined not more than
208 twenty-five thousand dollars per day for each violation or be
209 imprisoned not more than one year, or both. A subsequent conviction
210 for any such violation shall carry a fine of not more than fifty thousand

211 dollars per day for each day of violation or imprisonment for not more
212 than two years, or both. Each violation shall be a separate and distinct
213 offense, and, in the case of a continuing violation, each day a violation
214 continues shall be deemed to be a separate and distinct offense.

215 (c) Any person who knowingly violates any provision of sections
216 22a-148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive,
217 section 22a-157 or 22a-158 of the general statutes, as amended by this
218 act, or any regulation adopted or registration, license or order issued
219 pursuant to said sections shall be fined not more than fifty thousand
220 dollars per day for each day of violation or be imprisoned not more
221 than three years, or both. A subsequent conviction for any such
222 violation shall carry a fine of not more than one hundred thousand
223 dollars per day for each day of violation or imprisonment for not more
224 than ten years, or both. Each violation shall be a separate and distinct
225 offense, and, in the case of a continuing violation, each day a violation
226 continues shall be deemed to be a separate and distinct offense.

227 (d) Any person who knowingly makes a false statement,
228 representation or certification in an application, record, report, plan or
229 other document filed or required to be maintained under sections 22a-
230 148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive, section
231 22a-157 or 22a-158 of the general statutes, as amended by this act, or
232 any regulation adopted or registration, license or order issued
233 pursuant to said sections, or who falsifies, tampers with, or knowingly
234 renders inaccurate any monitoring device or method required to be
235 maintained under said sections, or any regulation adopted or
236 registration, license or order issued pursuant to said sections, shall,
237 upon conviction, be fined not more than twenty-five thousand dollars
238 per day for each violation or imprisoned not more than two years for
239 each violation, or both. Each violation shall be a separate and distinct
240 offense, and, in the case of a continuing violation, each day a violation
241 continues shall be deemed to be a separate and distinct offense.

242 (e) For the purposes of this section, "person" includes, but is not
243 limited to, any responsible corporate officer or municipal official.

244 Sec. 8. Section 22a-157 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective October 1, 2007*):

246 No person shall construct, operate, use, manufacture, produce,
247 transport, transfer, receive, acquire, decommission, own or possess any
248 source of ionizing radiation, [unless exempt, licensed or registered in
249 accordance with the provisions of sections 22a-151 to 22a-158,
250 inclusive] unless such activity is in compliance with all requirements of
251 this chapter, including any regulations adopted, or registration or
252 license issued under this chapter. No person shall produce, transport,
253 store, possess, manage, treat, remediate, or dispose of any radioactive
254 materials, unless such activity is in compliance with all requirements
255 of this chapter including any regulations adopted, or registration or
256 license issued under this chapter. No person shall fail to register a
257 source of ionizing radiation required to be registered under this
258 chapter, or by any regulations adopted under this chapter.

259 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) If a person causes or is
260 responsible for any exposure hazard or potential exposure hazard
261 from radioactive materials, radioactive waste, or a source of ionizing
262 radiation, or causes or is responsible for pollution, contamination or
263 potential pollution or potential contamination of any land, water, air or
264 other natural resource of the state through a discharge, spillage,
265 uncontrolled loss, release, leakage, seepage, or filtration of radioactive
266 material or radioactive waste, and does not act immediately to prevent,
267 abate, contain, mitigate or remove such hazard, potential hazard,
268 pollution, contamination, or potential pollution or potential
269 contamination, to the satisfaction of the Commissioner of
270 Environmental Protection, or if such person is unknown, and such
271 hazard, potential hazard, pollution, contamination, or potential
272 pollution or potential contamination, is not being prevented, abated,
273 contained, mitigated or removed by the federal government, a state
274 agency, a municipality or a regional or interstate authority, the
275 commissioner may take steps as he or she deems necessary to protect
276 human health and the environment including, but not limited to,
277 investigating, monitoring, abating, containing, mitigating, or removing

278 such hazard, potential hazard, pollution, contamination, or potential
279 pollution or potential contamination. The commissioner may enter into
280 a contract with any person for the purpose of carrying out the
281 provisions of this subsection.

282 (b) Any person who causes or is responsible for any exposure
283 hazard or potential exposure hazard from radioactive materials,
284 radioactive waste, or a source of ionizing radiation or who causes or is
285 responsible for pollution, contamination, or potential pollution or
286 potential contamination of any land, water, air or other natural
287 resource of the state through a discharge, spillage, uncontrolled loss,
288 release, leakage, seepage, or filtration of radioactive material or
289 radioactive waste shall be liable for all costs and expenses incurred by
290 the commissioner pursuant to subsection (a) of this section, including
291 all costs and expenses to restore the air, water, land and other natural
292 resources of the state, and shall be liable for all attorneys fees, court
293 costs and any other legal expenses incurred by the state for the
294 recovery of such costs. Nothing in this subsection shall preclude the
295 commissioner from seeking additional compensation or such other
296 relief that a court may award, including punitive damages. When such
297 hazard, potential hazard, pollution, contamination or potential
298 pollution or potential contamination results from the action or inaction
299 of more than one person, each person shall be held jointly and
300 severally liable for such costs. Upon request of the commissioner, the
301 Attorney General shall bring a civil action to recover all such costs and
302 expenses from the person who caused or is responsible for any hazard,
303 potential hazard, pollution, contamination or potential pollution or
304 potential contamination.

305 (c) Any person who prevents, abates, contains, removes or mitigates
306 any (1) exposure hazard or potential exposure hazard from radioactive
307 materials, radioactive waste, or a source of ionizing radiation that is
308 not authorized by regulation, registration or license, or (2) any
309 pollution or contamination or potential pollution or potential
310 contamination of any land, water, air or other natural resources of the
311 state through a discharge, spillage, uncontrolled loss, release, leakage,

312 seepage, or filtration of radioactive material or radioactive waste that is
313 not authorized by regulation, registration or license, shall be entitled to
314 reimbursement of the reasonable costs incurred or expended for such
315 abatement, containment, removal, or mitigation from any person
316 whose negligent, reckless, or intentional action or inaction caused such
317 hazard, potential hazard, pollution, contamination or potential
318 pollution or potential contamination. When such hazard, potential
319 hazard, pollution, contamination or potential pollution or potential
320 contamination results from the action or inaction of more than one
321 person, each person shall be held jointly and severally liable for such
322 costs.

323 (d) Whenever the commissioner incurs contractual obligations in
324 carrying out the duties of subsection (a) of this section and the person
325 who causes or is responsible for the hazard, potential hazard,
326 pollution, contamination or potential pollution or potential
327 contamination does not assume such contractual obligations, the
328 commissioner shall request the Attorney General to bring a civil action
329 pursuant to subsection (a) of this section to recover the costs and
330 expenses of such contractual obligations and the other costs and
331 expenses provided for in subsection (b) of this section. If any such
332 person is unknown, the commissioner shall request the federal
333 government to assume such contractual obligations to the extent
334 provided for by federal law.

335 Sec. 10. Subsection (a) of section 22a-6a of the general statutes is
336 repealed and the following is substituted in lieu thereof (*Effective*
337 *October 1, 2007*):

338 (a) Any person who knowingly or negligently violates any
339 provision of section 14-100b or 14-164c, subdivision (3) of subsection
340 (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-
341 7, chapter 440, chapter 441, section 22a-69 or 22a-74, subsection (b) of
342 section 22a-134p, section 22a-148 to 22a-150, inclusive, 22a-153, 22a-
343 154, as amended by this act, 22a-157, as amended by this act, 22a-158,
344 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183,

22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358, 22a-359, 22a-361, 22a-362, 22a-365 to 22a-379, inclusive, 22a-401 to 22a-411, inclusive, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted or issued thereunder by the Commissioner of Environmental Protection shall be liable to the state for the reasonable costs and expenses of the state in detecting, investigating, controlling and abating such violation. Such person shall also be liable to the state for the reasonable costs and expenses of the state in restoring the air, waters, lands and other natural resources of the state, including plant, wild animal and aquatic life to their former condition insofar as practicable and reasonable, or, if restoration is not practicable or reasonable, for any damage, temporary or permanent, caused by such violation to the air, waters, lands or other natural resources of the state, including plant, wild animal and aquatic life and to the public trust therein. Institution of a suit to recover for such damage, costs and expenses shall not preclude the application of any other remedies.

Sec. 11. (NEW) (*Effective October 1, 2007*) Notwithstanding the provisions of section 22a-6a, sections 22a-151 to 22a-157, inclusive, of the general statutes, as amended by this act, and sections 7 to 10 inclusive, of this act, the standards adopted by the federal Occupational Safety and Health Administration, including, but not limited to: (1) Standards listed in 29 CFR 1910.1096 as adopted pursuant to chapter 571 of the general statutes, (2) 29 USC 651 et seq., or (3) more protective worker exposure limits, as determined by the Commissioner of Environmental Protection, in consultation with the Labor Commissioner, as appropriate, shall apply to persons who produce, transport, store, possess, manage, treat, remediate or dispose of radioactive material, radioactive waste or a source of ionizing radiation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	22a-151
Sec. 2	<i>October 1, 2007</i>	22a-152
Sec. 3	<i>October 1, 2007</i>	22a-153
Sec. 4	<i>October 1, 2007</i>	22a-154(a)
Sec. 5	<i>October 1, 2007</i>	22a-155
Sec. 6	<i>October 1, 2007</i>	22a-156
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	22a-157
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>October 1, 2007</i>	22a-6a(a)
Sec. 11	<i>October 1, 2007</i>	New section

ENV *Joint Favorable Subst.*

PS *Joint Favorable*